

Meeting Date: 12/2/08

# AGENDA REPORT

City of Santa Clara, California

Agenda Item # SD



**Date:** November 20, 2008

**To:** City Manager for Council Action

**From:** Director of Planning and Inspection

**Subject:** Amendment of Interim Procedural Policy regarding Review of Big Box Retail (Supercenter) Applications

## **EXECUTIVE SUMMARY:**

On November 18, 2008, Keyser Marston Associates (KMA) presented an analysis of the potential economic effects of a new big box retailer operation with a grocery component upon current grocers in Santa Clara. For the purposes of the analysis, the report assumed a "supercenter" retail concept that would range from 185,000 to 200,000 square feet overall, including a 55,000 to 70,000 square foot grocery element. The evaluation forecast an oversaturation of grocery service for the City and predicted potential adverse effect on existing vulnerable grocers within the City. Council accepted the report to incorporate in the General Plan Update effort, directed the City Manager to evaluate an ordinance process (due January 27, 2009) and directed the City Manager to update the current interim procedural policy for review of big box proposals.

The current interim policy approved by the City Council on June 17, 2008 calls for automatic referral to Council of retail use permit applications (over 10,000 square feet) in the industrial zones of the City following a Planning Commission action. Like the prior one, the proposed policy is procedural and acts in essentially the same manner as an appeal process. The updated policy presented here is intended to cover all areas of the City, regardless of zoning, were there to be application for a supercenter type of development or operation. While the General Plan Update process will delve into a broad scope of land use policies and programs and will consider Citywide economic vitality implications of the options, this interim policy is fundamentally to provide a process to avert unintended significant land use actions that could adversely affect the community's services and businesses.

Staff has proposed a policy statement for Council's consideration that defines criteria for applications that would be subject to referral to Council and findings that provide a basis for decisions on those subject applications. The policy would define subject retail applications as those that involve less floor area than presented in the KMA analysis, but larger than a major grocery store of about 50,000 square feet. At 90,000 square feet, this baseline is more like the higher end a combined grocery/drug store floor area. In each case, the proposal would be subject to the normal application review process, including standard appeal procedures, but there would be an automatic referral of the primary action on that item to the Council at the next regular meeting where it can be agendized, absent an appeal filed by any other party. An economic analysis in line with the KMA report could be required, similar to the Council's Industrial-to-Residential Conversion policy requirement to help evaluate the effect of significant land use changes.

The Council may need to set a hearing date prior to taking any reversal action, but particularly where the standard review process calls for a public hearing. Using the use permit example, a project may come as a referral to Council via the Planning Commission minutes, at which time the Council could adopt a motion to appeal the item and set a hearing date to review it. In the case of an architectural application in a commercial

zoning district, the referral may come from the Architectural Committee and/or staff and be set on the agenda for Council review. Upon the referral, the Council may allow a prior decision to stand or may set the item for hearing. Such review actions will need to be concluded prior to issuance of permits. Issuance of a permit may be withheld if a use is not consistent with zoning, or if approval is not granted for building construction or alteration in accordance with Section 18.76.020 of the City Code.

The following interim procedural **Big Box Retail Policy** is submitted for Council consideration:

*All applications involving a single tenant area of more than 90,000 square feet of retail sales space, including changes in use, variances, use permits and architectural review requests, shall be referred through the City Manager to the City Council for consideration prior to issuance of building permits. The Council may, by a motion, set a hearing date to consider action on or an appeal of an action taken on such a request. The Council, in its consideration of the matter, may take into account whether the proposal will substantially adversely affect the neighborhood, the area or the City in terms of any or all of the following: noise, traffic, parking, light or glare, conflict in land uses, or economic effects on the public convenience and welfare of the residential and business community. For the purpose of making this determination, the Council may require that the applicant prepare and submit an economic impact analysis (EIA) to support the application.*

Staff is currently evaluating the draft ordinance presented to the City Council by the South Bay Labor Council on November 18, along with other ordinances that are suitably comparable for these purposes. The results of staff's analysis of the ordinance(s) will be presented on January 27, 2009.

#### **ADVANTAGES AND DISADVANTAGES OF ISSUE:**

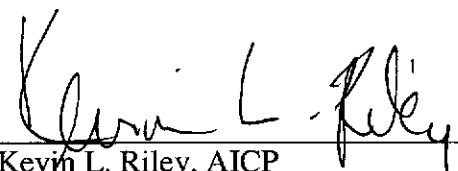
Implementation of this interim policy will ensure consideration of competitive conditions for existing retail and grocery market operations in the City while the 2010-2035 General Plan is undergoing preparation. Establishing formal policies in the updated General Plan should ensure long-term economic health and competitiveness for all retailers that serve the community.

#### **ECONOMIC/FISCAL IMPACT:**


There is no cost to the City other than contractual and administrative staff time and expense.

#### **RECOMMENDATION:**

That the Council rescind the interim policy previously adopted on June 17, 2008 and adopt the interim procedural **Big Box Retail Policy** as presented in this report, or as it may be amended by Council, and direct the City Manager to apply this policy until adoption of the 2010-2035 General Plan, or until otherwise amended or rescinded by the Council.

  
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Kevin L. Riley, AICP  
Director of Planning and Inspection

APPROVED:

  
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Jennifer Sparacino  
City Manager

#### ***Documents Related to this Report:***

1) None